REMARKS

Claims 1-17 and 19-22 are pending.

Claims 1-17 and 19-22 are rejected.

Claim 18 is cancelled.

Claims 1 and 19 are amended to more clearly specify that the part of the video program being recorded is from the time the override command is initiated to the time an interactive is terminated. This specifically indicates that at least material corresponding to a first commercial break is not recorded

I. 35 U.S.C. § 103 Rejection of Claims 1-16

The Examiner rejected Claims 1-16 under 35 U.S.C. 103(a) as being unpatentable over Tsuchida (U.S. Patent Publication No. 2002/0194593) in view of Karlton et al. (U.S. Patent 5,835,717, hereafter referred to as 'Karlton') and in further view of Estipona (U.S. Patent 7,263,711), and in further view of Beard (U.S. Patent 6,172,712). Applicants disagree with this ground of rejection.

Claim 1 claims the following elements of:

"automatically switching back to the display of said video program at the end of said commercial break unless said user enables an override command at the time of said switching operation as to continue the operation of said interactive application until said interactive application is terminated

...

received information corresponding to said video program is stored where the video program stored corresponds from the period when said interactive application and said second interactive application is being used after said override command is performed until said interactive applications is terminated, and

playing back said stored information in said primary area, when said interactive applications are terminated, as to drop at least one frame of video from said stored information until said video program can be presented in real

time only when the operation of said interactive application lasts longer than the period of time corresponding to said beginning of said commercial break and the end of said commercial break."

The Examiner's combination of Tsuchida, Karlton, Estipona, and Beard, alone nor in combination, disclose or suggest these above claimed features of Claim 1.

Specifically, the Examiner focuses on the teaching of Beard as disclosing the feature of Beard reference in combination with the other three references as Beard discloses a "TV with a hard disk drive for storing TV program for later playback, where if the initial pause of view is sufficiently brief, the system drops frames to enable the user to catch-up with the in-progress TV after resuming, (Office Action, page 5)". Hence, using the disclosure of Beard with the other three references, the Examiner incorrectly concludes that claimed features of the invention are disclosed.

As claimed, Claim 1 first claims that "the video program stored corresponds from the period when said interactive application and said second interactive application is being used after said override command is performed until said interactive applications is terminated". This element claims that the video program is stored and not the contents of the commercial break. In contrast, Beard, in combination with the other three references, discloses that everything is to be recorded, unlike the present invention.

This concept is disclosed in the Summary of the Invention of Beard (see col. 3, lines 1-23, where, "The program can be watched at a slightly faster speed from the original analog signal. The time can be further reduced by skipping the commercials, either by providing a manual fast forward function, or by using a commercial detection algorithm." The reference then provides the implementation as to how the commercial detection will operate, "For example, a one hour television program will typically contain 12 minutes of commercials. By recording a program and replaying it a 2fps faster than the

broadcast signal, e.g., at 32 fps for an NTSC signal, and eliminating the commercials, the one-hour program can be watched in under 45 minutes". In this embodiment, it teaches that commercials are to be skipped (presumably by fast forwarding through such commercials). This type of suggestion is different than the present invention, where only the "video program" will be recorded.

The present invention also claims that when finally playing back the recorded information, "in said primary area, when said interactive application is terminated, as to drop at least one frame of video from said stored information until said video program can be presented in real time *only when the operation of said interactive application lasts longer than the period of time corresponding to said beginning of said commercial break and the end of said commercial break*," (emphasis added). The invention therefore sets up a condition which restricts when "at least one frame of video" is to be dropped, as when the "operation of said interactive application lasts longer than the period of time corresponding to the beginning of said commercial break and the end of said commercial break". This operation of Claim 1 is neither disclosed nor suggested in the Examiner's combination.

Referring to the operation of Beard (in combination with the other three references), the Examiner points to the disclosure that fully states, "If the initial pause in viewing is sufficiently brief, the stored video replay may be replayed at a faster rate in order to eventually "catch up" to the incoming analog signal at which point the originally broadcast signal may be watched," (Beard, col. 2, lines 61-65). This disclosure of Beard teaches that the programming from the time it is paused to the time it is replayed, that ***all*** of the programming will be sped up until it is "caught up", this includes the fast forwarding of ***all of the broadcast programming and commercials***. This is unlike what is done in Claim 1, where the commercial breaks are not replayed at all, and the only video programming information playback will "drop at least one frame of video from said stored information until said video program can be presented in real time". That is, Beard in combination with the other references, does not

suggest this selective type of operation where the only video programming being played back is "corresponds from the period when said interactive application and said second interactive application is being used after said override command is performed until said interactive applications is terminated".

The Applicants also note that the Examiner's modification of Tsuchida, Karlton, and Beard, with Estipona would create a combination which would change the principles operation of the prior art invention being modified as to make the teachings of such references not sufficient to render the claims prima facie obvious (In re Ratti, 270 F. 2d 810, 123 USPQ 349 (CCPA 1959). Specifically, when referring to the Estipona reference, the operation of the invention requires the use of triggers which are inputted into a video stream by a broadcaster at a head end, which need to be capable of being read by a television receiver in order to operate as intended (see Estipona col. 2, lines 3-59). The triggers are used by a broadcaster to control how a user is to watch a program and interact with enhancements associated with a television program.

Estipona then continues about how a broadcaster inserts a trigger into a broadcast program as to notify a user about the case when, "it may be desirable in some embodiments to remove the possibility of accessing first program enhancements, for example through the enhancement field 64 ... This is keeping with the suggestion of the AVTEF Specification that enhancements should not be automatically made available in ensuring television programs," (Estipona, col. 3, lines 40-50). Hence, the principles of Estipona, in order to operate, requires the use of triggers which need to be read by a television receiver, and provides a system where a broadcaster would want to control what a user can and cannot do. The reference makes it clear that the use of broadcaster inserted triggers is to be associated with a television program, not the commercials in which a broadcaster would not want a user to skip. Moreover, the triggers are more related to when a program may be ending and a new television program would be beginning

(see Estipona, col. 4, lines 17-28), and have nothing to do with commercial breaks for a television program.

The Applicants point out that the teachings of Estipona require the use of ***broadcaster inserted triggers*** in order to operate, where the broadcaster would use triggers to control how a user watches a television show where such triggers are directed towards television programs themselves, not commericals. Hence, to have the principles of Estipona perform, a receiver (as in Tsuchida, Karlton, and Beard) would require the ability to recognize such triggers, which would change the principle operation of such references not be used, but for the Examiner's combination. Hence, the teachings of the references are not sufficient to render the claims prima facie obvious (see In re Ratti, Ibid).

Additionally, the Examiner's combination has the problem where the principles Estipona is directed towards the broadcaster controlling what a user may or may not do (i.e., not skip commercials or restricting how long a user is to use an interactive application), while Tsuchida, Karlton, and Beard focus more on providing the user more control (a user can use an interactive application for as long as they want) while the principles of Estipona are restrictive (limits a user's interaction). Such a modification of Tsuchida, Karlton, and Beard with Estipona would render the prior art invention of Tsuchida, Karlton, and Beard unsatisfactory for its intended purpose, reducing the suggestion or motivation to make the Examiner's proposed modification (In re Gordon, 733 F. 2d 900, 221 USPQ 1125 (Fed Cir. 1984).

Hence for the reasons given above, Applicants assert that Claim 1 is patentable over the cited art of record.

Claim 16 is patentable for the same reasons given above for Claim 1. Additionally, Applicants assert Claims 2-15 are patentable, as such claims depend on allowable Claim 1.

II. 35 U.S.C. § 103 Rejection of Claims 17 and 22

The Examiner rejected Claims 17 and 22 under 35 U.S.C. 103(a) as being unpatentable over Tsuchida in view of Allen et al. (U.S. Patent Publication No. 2003/0041331, hereafter referred to as 'Allen'), and in further of Estipona.

Claim 17 claims the operations of, "received information corresponding to said video program is stored where the video program being stored corresponds starts from the period when said interactive application is being used after said override command and said storing ends when said interactive application is terminated, and

playing back said stored information in said primary area, when said interactive application is terminated, as to drop at least one frame of video from said stored information until said video program can be presented in real time." This claimed period of when to record programming is neither disclosed nor suggested in the Examiner's recited combination.

Specifically, referring to the Allen reference, (in combination with Tsuchida and Estipona), suggests that one would record everything from the time of an interruption to when a live television signal 402 is resumed (see paragraph 0083). This is unlike the present invention which selectively records only from the time an interactive application is overridden (at the end of a commercial break) to when the interactive application is terminated. That is, the present invention of Claim 18 discriminates what is and is not recorded, versus the system disclosed in Tsuchida, Allen, and Estipona, that would record everything (the commercials of a commercial break and video programming itself). Moreover, the Examiner's system would require a user to fast forward through everything including commercials, which is not performed in the invention of Claim 18.

Additionally, for the reasons given above for Estipona for Claim 1, the addition of triggers need to be added to a broadcast stream in order for the principles of the invention (like an override) to operate with Tsuchida and Allen.

Also, the disclosed principles of Tsuchida, and Allen would change with the addition of Estipona as to as to make the teachings of such references not sufficient to render the claims prima facie obvious (In re Ratti, Ibid). Specifically, when referring to the Estipona reference, the operation of the invention requires the use of triggers which are inputted into a video stream by a broadcaster at a head end, which need to be capable of being read by a television receiver in order to operate as intended (see Estipona col. 2, lines 3-59). The triggers are used by a broadcaster to control how a user is to watch a program and interact with enhancements associated with a television program. Tsuchida with Allen in contrast are directed towards having a user control what they watch and what they interact with such that a broadcaster control of such applications, with the unnecessary addition of the triggers of Estipona, would result in a system of contrary concepts.

Hence, Applicants assert that the combination of the teachings of Tsuchida, Allen, and Estipona, when combined together, would suggest against the Examiner's combination and would not present a prima facie rejection under 35 U.S.C. 103(a), (see In re Ratti, Ibid).

Applicants assert that Claim 19 is patentable for the reasons given above, and Claim 22 is patentable, as such a claim depends on allowable Claim 19.

III. 35 U.S.C. § 103 Rejection of Claims 19-21

The Examiner rejected Claims 19-21 under 35 U.S.C. 103(a) as being unpatentable over Tsuchida in view of Allen and in further view of Estipona and in further view of Karlton. Applicants disagree with this ground of rejection.

As noted above for the argumentation for Claims 1 and 17, the addition of Estipona with Tsuchida, Allen, and Karlton, would require the use of broadcaster added triggers at a certain points in programming (at times of a commercial break) for the principles of the Examiner's combined system to operate. It is highly unlikely that a broadcaster would want to add such triggers to allow a user

to skip over commercials (as in the present invention). Moreover, as recited above, Estipona suggests that a system where the broadcaster is in control of what a user can do, versus the principles of Tsuchida, Allen, and Karlton, that favor a user over a broadcaster. Hence, the combination of all of these references represents conflicting principles and suggestions, as to render the Examiner's suggestion combination not capable for the purposes of making a prima facie obviousness rejection under 35 U.S.C.103(a).

In addition, Claims 19-21 are patentable, as such claims depend on allowable Claim 17. Applicants request that the Examiner remove the rejection to these claims.

Applicants request a three-month extension under 37 C.F.R. 1.136(a) from the three month due date was originally due. Please charge the fee for this extension and any other fees owned in connection with this action to Deposit Account 07-0832.

Having fully addressed the Examiner's rejections it is believed that, in view of the preceding amendments and remarks, this application is in condition for allowance. Accordingly, reconsideration and allowance are respectfully solicited. If, however, the Examiner is of the opinion that such action cannot be taken, the Examiner is invited to contact the Applicants' attorney at (609) 734-6809, so that a mutually convenient date and time for a telephonic interview may be scheduled.

Respectfully submitted,
/Joel M. Fogelson/
By: Joel M. Fogelson
Reg. No. 43, 613
Phone (609) 734-6809

Patent Operations
Thomson Licensing
P.O. Box 5312

Princeton, New Jersey 08543-5312

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